

EXHIBIT 1

1	UNITED STATES OF AMERICA	2149	I N D E X	2151
2	SOUTHERN DISTRICT OF ILLINOIS			
3	D.W.K., Jr., and parents)			
4	Mary and Daniel Kaleta,)			
5	Plaintiffs,)			
6	v.) No. 3:14-cv-847-NJR			
7	Abbott Laboratories, Inc.,)			
8	Defendant.)			
9				
10	TRANSCRIPT OF JURY TRIAL PROCEEDINGS	10		
11	DAY 9 - P.M. SESSION			
12	BEFORE THE HONORABLE NANCY J. ROSENSTENGEL	12		
13	UNITED STATES DISTRICT JUDGE	13		
14	March 12, 2015	14		
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1 take your medications as recommended?
2 A. Yes, I do.
3 Q. Has any medication ever totally controlled your
4 seizures?
5 A. No.
6 Q. The jury has heard, and I think some testimony,
7 but you take multiple combinations at different times in
8 your life; correct?
9 A. Correct.
10 Q. Has there been any combination that has eliminated
11 your seizure issues?
12 A. No.
13 Q. Since you are -- you are currently on Depakote; is
14 that correct?
15 A. Yes, I am.
16 Q. And you take Depakote with another medication?
17 A. Yes, I do.
18 Q. And what is that medication?
19 A. Tegretol and clonazepam.
20 Q. So you have a three-drug combination now, one of
21 which is Depakote?
22 A. Yes.
23 Q. And would you please describe for the jury the
24 type of seizures that you have.
25 A. Okay. Well, one is a small seizure where I just

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1 Q. Okay. And do you know why you were having that 2168
2 seizure activity?
3 A. I was pregnant.
4 Q. So you were six months pregnant with ; is
5 that correct?
6 A. Yes.
7 Q. Do you recall anything that Dr. Taber told you
8 about Depakote?
9 A. No, I do not.
10 Q. Do you even remember Dr. Taber?
11 A. No, I do not.
12 Q. If Dr. Taber were to walk through those doors,
13 could you recognize him?
14 A. No, I cannot.
15 Q. Why are you still -- are you on -- well, let me
16 ask this question: When Dr. Taber put you on Depakote,
17 did you take Depakote through the pregnancy with ?
18 A. Yes, I did.
19 Q. Did you stay on Depakote from 1993 until present?
20 A. Yes, I did.
21 Q. Have you taken Depakote every day of your life
22 since 1993 when Dr. Taber put you on Depakote?
23 A. Yes, I have.
24 Q. And you are currently on Depakote today?
25 A. Yes, I am.

1 Q. Tell the jury why you are still on Depakote today.²¹⁶⁹
2 A. Well, for one, to switch a drug from another drug,
3 it raises seizure activity and it can be very dangerous.
4 And another thing is, I have to take care of my son. I'm
5 the only one that can take care of his medical needs,
6 doing the measurements and everything he needs to be done.
7 So, I'm the only one that can take care of him. I do not
8 have time to go in the hospital and change my medicine.
9 Q. Is Depakote and the combination -- well, let me
10 ask it this way. Sorry to start over.
11 Do you take Depakote today?
12 A. Yes, I do.
13 Q. What else do you take?
14 A. I take Tegretol and clonazepam.
15 Q. And who added the Tegretol back in?
16 A. I believe that would be McGonagle.
17 Q. So you were on Tegretol, you were pregnant with
18 , had some seizures. He took you off Tegretol, put
19 you on Depakote. Correct?
20 A. Yes.
21 Q. Then you come down and you are pregnant with
22 .
23 A. Yes.
24 Q. And you go back on Tegretol.
25 A. Yes.

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1 himself, if you know. 2198 2200
2 A. He hates it. He hates that he has to go and cath
3 himself. He says he wished he could be like and
4 just go like
5 Q. You okay?
6 A. Yeah.
7 Q. Let's get through it, okay?
8 A. Okay.
9 Q. Do you think -- I mean needs
10 psychological care?
11 A. Yeah, I do.
12 Q. Can you afford that?
13 A. No, I can't.
14 Q. References have been made to the therapist that
15 has come to your house, and we're going to look at some
16 videos of that in a minute. Is the therapist still
17 working with -- I mean, excuse me -- ?
18 A. No. Since my husband's been unemployed, we lost
19 's therapist. And he really needs therapy.
20 Q. And is here with you and your husband during
21 this trial; is that correct?
22 A. Yes. I have to take care of him.
23 Q. And have you noticed any problems with
24 because he's not getting his therapy?
25 A. Yes. His muscles are tightening and his muscles

1 minutes.

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2 MR. STRAIN: Thank you, Your Honor.

3 (Court recessed from 2:06 p.m. to 2:21 p.m.)

4 (Proceedings continued at the bench, outside the
5 hearing of the jury.)

6 MR. STRAIN: I didn't want to do this without
7 advising the Court. She said since her husband got
8 unemployed, they lost his insurance. His physical
9 therapist for 15 years, they have lost, and he really
10 needs it and they have no way to get it. I'm entitled to
11 ask what they have done to investigate forms of assistance
12 to get that physical therapist back. She has those --
13 case law -- and I have it right here, but there is case
14 law on it that once someone opens the door like that and
15 says because of lack of funds, they can't get a needed
16 service, they're not -- then I'm entitled to inquire into
17 what they have done to attempt to get public assistance.
18 And there is public assistance.

19 And they also said they couldn't afford
20 counseling, so there's two different things in, you know,
21 the record. She said one of them with tears. So, it's a
22 very emotional thing. It's in the context of this young
23 man needing emotional counseling because he's threatening
24 to shoot himself and couldn't be more prejudicial for the
25 jury thinking, unless they give him an award, he's going

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1 to be without counseling and be at risk of suicide. It's²²¹²
2 very prejudicial.

3 THE COURT: So what you want to do is what she's
4 done to inquire?

5 MR. STRAIN: What she's done to inquire and I
6 don't know what she's going to say, and then we'll address
7 that with our life care plan people if things are
8 available to her. We have to now.

9 MR. FIBICH: Well, Your Honor, I don't --

10 MR. STRAIN: They're going -- then the jury's
11 going to think if they don't give them an award, the young
12 man's at risk. It's a terrible thing.

13 MR. FIBICH: Your Honor, I don't think it opened
14 the door. Basically she said her husband's unemployed.
15 They don't have their therapist. She doesn't have the
16 money to pay for it. The fact of the matter is, he's
17 going to find employment. So there's no benefits. He
18 gets into total speculation about what's out there. If he
19 wants to ask her if -- I mean, what is it you want to ask
20 her?

21 MR. STRAIN: I'm going to ask her what she's done to
22 investigate different programs.

23 THE COURT: And I think that's reasonable. As
24 long as it doesn't go too far, you're entitled to that.

25 MR. STRAIN: Thank you very much, Your Honor.

	2217	1 program called -- 2 MR. FIBICH: Excuse me, Your Honor. I want to 3 object to the relevancy of this, calls for speculation, 4 violates the motion in limine, violates what Mr. Strain 5 says we were going to talk about. 6 MR. STRAIN: It does not. 7 THE COURT: Objection will be overruled. 8 Q. (BY MR. STRAIN) I'm sorry. Let me just ask: Has 9 she talked to you about or have you looked into Illinois 10 program called SAS, for children like or needs like 11 that? 12 A. There is a program called DSAC. 13 Q. Have you looked into that? 14 A. I have that. 15 Q. Okay. Okay. So -- 16 A. But that's only to do with the spina bifida. 17 Q. Okay. I don't want to get into too much detail. 18 I don't think we need to on this because there are people 19 who specialize in this. I don't. But you are looking 20 into getting assistance for as you should, as he 21 needs; right? 22 A. Correct. 23 Q. Okay. Good. Now, just so you know where I'm 24 going, Mrs. Kaleta, I am going to ask, now ask you 25 questions about a couple of things Mr. Fibich asked you
1 and four years ago? 2 A. Yeah. 3 Q. Does that sound about right? 4 A. (Nonverbal response.) 5 Q. Okay. And nothing like that since? 6 A. No. But he's still at home. 7 Q. Okay. Now, you mentioned that you wanted 8 counseling for and you wanted to get the therapist 9 back, but your husband lost his insurance, his work and 10 the insurance with it; right? 11 A. Yes. 12 Q. So -- and that happened in January, I think, when 13 your husband lost his job? The first of the -- 14 A. Yes. 15 Q. So, have you and your husband looked into what 16 the, kind of public assistance you could get? 17 A. We're doing it right now. 18 Q. You're -- 19 A. We're in the process right now. 20 Q. What public assistance are you looking into that 21 will help ? 22 A. It was called All Kids. I am having help through, 23 the state social work is helping me try and get insurance 24 on . 25 Q. And how about, has she told you about the Illinois	2218	

1 Q. Five. Tegretol?
2 A. Yes.
3 Q. Zarontin?
4 A. Yes.
5 Q. And what else, Mrs. Kaleta?
6 A. Dilantin.
7 Q. Dilantin?
8 A. Phenobarbital. And I'm on clonazepam now.
9 Q. And Depakote. Right?
10 A. I think you already said Depakote.
11 Q. Tegretol, Zarontin, clonazepam, Dilantin,
12 Phenobarbital and Depakote. Weren't, weren't there
13 others?
14 A. No.
15 Q. But six is a lot. So, that's six. A lot of those
16 you tried before you settled on to Depakote in 1993;
17 correct?
18 A. Yes.
19 Q. Your doctors were always trying to find what was
20 the best -- nothing's going to be perfect -- what was the
21 best for you; right?
22 A. Yes.
23 Q. Okay. You -- I think you went into this with Mr.
24 Fibich. You dropped out of school in the 9th or 10th
25 grade; right?

1 A. I do not remember. 2269

2 Q. You started on the Depakote in 1993. And that's

3 22 years ago. There's not a day since then you haven't

4 been using Depakote; right?

5 A. I am on Depakote, yes.

6 Q. You have found it to be very important to help you

7 lead the life you want to lead; is that correct?

8 A. Am I somewhat controlled? Yes.

9 Q. Well, let me just ask. And if you don't want to

10 answer this, just tell me. I asked whether you find it to

11 be very important to help you lead the life you want to

12 lead. Has Depakote been very important to you to lead the

13 life you want to lead for the last 22 years?

14 A. I really don't know how to answer that.

15 Q. All right. I'll withdraw the question then and I

16 thank you very much.

17 MR. FIBICH: Keep your seat.

18 THE WITNESS: Pardon me?

19 MR. FIBICH: Keep your seat. We're going to talk.

20 THE WITNESS: Okay.

21 REDIRECT EXAMINATION

22 BY MR. FIBICH:

23 Q. You and I can agree that Mr. Strain is a pretty

24 smart fella, isn't he?

25 A. Yes.

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1 REPORTER'S CERTIFICATE

2 I, Christine A. Dohack, Registered Merit Reporter
3 and Certified Realtime Reporter in and for the United
4 States District Court for the Southern District of
5 Illinois, do hereby certify that I was present at and
6 reported in machine shorthand the proceedings in the
7 above-mentioned court; and that the foregoing transcript
8 is a true, correct, and complete transcript of the
9 electronic recording.

10 I further certify that I am not an attorney for,
11 nor employed by, nor related to any of the parties or
12 attorneys in this action, nor financially interested in
13 the action.

14 I further certify that this transcript contains
15 pages 2149-2296 and that this reporter takes no
16 responsibility for missing or damaged pages of this
17 transcript when same transcript is copied by any party
18 other than this reporter.

19 IN WITNESS WHEREOF, I have hereunto set my hand at
20 Benton, Illinois, this 12th day of March, 2015.

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22 s/Christine A. Dohack, RMR, CRR

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24 Christine A. Dohack, RMR, CRR

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